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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,106	02/05/2004	William J. Ketcherside JR.	15226.25.1	3980
22913	7590	08/24/2006	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			POPE, DARYL C	
			ART UNIT	PAPER NUMBER
			2612	
DATE MAILED: 08/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/773,106	KETCHERSIDE ET AL.	
	Examiner	Art Unit	
	DARYL C. POPE	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 June 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/27/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

ART REJECTION:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8,10-17, and 19-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenfeld et al(6,804,656).

-- In considering claim 1, the claimed subject matter that is met by Rosenfeld et al(Rosenfeld) includes:

- 1) the receiving the clinical data from the clinical system on an inbound data interface is met by the Command center/remote location(202) receiving patient information from the ICU(204)(see: column 19, lines 34-50);
- 2) the storing the clinical data in an expert system database is met by the database server/data warehousing functionality(208) which store amassed patient information(See: column 19, lines 2-8);

3) the processing the clinical data in the expert system is met by the support algorithms which process the stored data and produce treatment information(see: column 19, lines 8-13);

4) the generating an alert based on results of processing the clinical data and sending the alert to the clinical system is met by the physician requesting treatment guidelines for critically ill patients at the user interface(484), and results of the request being to the interface(484) via the order writing assignment manager(496) after processing(see: fig. 14, column 22, lines 15-36).

-- With regards to claim 2, the receiving audit information on an audit interface and updating the audit log in the expert system is met by the database server/warehouse functionality(208) amassing information pertaining to conditions, treatments, outcomes, and other information of a statistical nature which would have constituted audit information and update of an audit log, since the warehouse(208) would have logged all information, actions, and updates(see: column 19, lines 4-19).

-- With regards to claim 3, the receiving a request from the clinical system, displaying an alert from the expert system receiving an update of clinical data at the expert system, and sending the update of the clinical data to the clinical system is met, as discussed in claim 1, by the physician resources(486) which allows physicians at the ICU(204) to input requests via user interface(484), receive results from assignment manager(496), and as well allows physicians to re-enter data to be processed by the diagnostic algorithm for further results to be displayed to the physician(see: column 22, lines 15-36).

-- Claim 4 recites subject matter that is met as discussed in claim 2 above(see: column 19, lines 4-19).

-- Claim 5 recites subject matter that is met as discussed in claim 3 above.

-- Claim 6 recites subject matter that is met as discussed in claim 2 above.

-- Claim 7 recites subject matter that is met as discussed in claim 1 above.

-- Claim 8 recites subject matter that is met as discussed in claim 3 above.

-- With regards to claims 10-12, the structuring messages according to proprietary message definitions, and the alert according to HL7 protocol is met by the information pertaining to patients being structured according to HL7 protocol(see: column 19, lines 34-45).

-- With regards to claim 13, the receiving clinical data from an interface engine disposed on a clinical module is within a clinical system is met by request data being received from a user interface(484) which allows a physician access to physician resources(486).

-- With regards to claim 14, the computer readable medium having computer executable instructions is met by the Headquarters(200) comprising application server(238), NT file server(240) and Sun SPARC Enterprise(250) which provides storing and serving information such as practice guidelines, algorithms(see: column 19, lines 58 et seq; column 20, lines 1-9).

-- Claims 15-17 recite subject matter that is met as discussed in claims 1-3 above, respectively.

-- Claims 19-21 recite subject matter that is met as discussed in claims 10-12 above.

- Claim 22 recites subject matter that is met as discussed in claim 14 above.
- Claims 23-27, and 31-32 recite subject matter that is met as discussed in claims 1-3 above.
- Claims 28-30 recite subject matter that is met as discussed in claims 10-12 above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenfeld et al(Rosenfeld).

-- With regards to claims 9 and 18, it would have been obvious that the alerts would have comprised data elements having standard identifiers attached to at least a portion of the elements, since information transmitted between the ICU's and the command center would have included patient specific information which would have required some form of data identification means attached to the data to ensure that the information would have been associated with each specific patient.

REMARKS:

Response to Arguments

6. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C. POPE whose telephone number is 571-272-2959. The examiner can normally be reached on M-TH 9:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MIKE HORABIK can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daryl C. Pope

August 20, 2006

DARYL C POPE
Primary Examiner
Art Unit 2612

